IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 13730 of 2004

Between:

M/s Sri Ambati Venkata Narasimhulu, Pancharatna Rice Mill,
Door No. VI-46, Ranga Reddy Street, Madanapalle - 517 325, Chittoor District, rep. by is Proprietor, Mr. A. Venkata Narasimhulu.

..... PETITIONER

AND

1 The Commercial Tax Officer, Madanapalle.
2 The Appellate Deputy Commissioner (CT), Kurnool.
3 The Joint Commissioner (CT) , Legal, Andhra Pradesh,

Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction to set aside the order of the 3rd Respondent in CCT's Ref.LV(3)/1229/2002 dated 4-5-2004 refusing to grant stay of collection of disputed penalty and restrain the 1st respondent from collecting the disputed penalty of Rs. 89,805/- for the assessment year 1997-98 pending disposal of the appeal in T.A.No. 301/2002 before the Sales Tax Appellate Tribunal

Counsel for the Petitioner:MR.S.DWARAKANATH

Counsel for the Respondents : GP FOR COMMERCIAL TAX

The Court made the following

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties, and with their consent, the writ petition itself is disposed of at this stage.

Petitioner filed an appeal against imposition of penalty. Pending appeal, he has also filed an application seeking stay of the recovery of penalty, which has been rejected. Hence, the writ petition.

Learned counsel for the petitioner submits that the order of assessment on the basis of which, penalty was imposed was set aside by the appellate authority, therefore, there is no question of imposition of penalty. He has produced an order of appellate authority, dated 29-11-2001.

In this view of the matter, we feel that the petitioner had a very good case for grant of stay. Writ Petition is allowed. Impugned order is set aside. The recovery of penalty is stayed till the disposal of the appeal by the Tribunal. No order as to costs.

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(BILAL NAZKI, J)

9th August, 2004.

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(S.ANANDA REDDY, J)

vrn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, the Ninth day of August, Two thousand and Four.

To

1 The Commercial Tax Officer, Madanapalle.
2 The Appellate Deputy Commissioner (CT), Kurnool.
3 The Joint Commissioner (CT) , Legal, Andhra Pradesh,

Nampally, Hyderabad.

4 Two C.Cs to the Government Pleader for Commercial Taxes,

High Court Buildings, A.P., Hyderabad (OUT)

5 Two C.D. copies.